



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307196-20

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<b>Development</b>	Installation of 15 metre high monopole structure
<b>Location</b>	Griffeen Avenue/R136 Junction, Lucan, Co. Dublin
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	S25419/05
<b>Applicant</b>	Signal Infrastructure Ltd.
<b>Type of Application</b>	Section 254 Licence
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant</b>	Signal Infrastructure Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30.06.2020
<b>Inspector</b>	Anthony Kelly

## **1.0 Site Location and Description**

- 1.1. The site is located in a grassed open space area adjacent to the low wall and railings boundary of the Moy Glas residential development north west of the road junction of the R136/Outer Ring Road and Griffeen Avenue approx. 650 metres north of Kishogue railway station in west Dublin. The road junction is relatively significant in terms of area and traffic and there is a substantial amount of existing physical infrastructure associated with the junction. The proposed monopole is approx. 15 metres from the nearest house to the north west.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises a freestanding 15 metres high galvanised pole structure with internal cables, a diameter of 324mm-406mm and a 0.6 metre diameter dish at a height of approx. 9.5 metres. Above 11.3 metres the antennae will be shrouded in a sheath to match the pole. An associated 1.652 metres high cabinet is also proposed.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The planning authority decided to refuse permission for two reasons:

1. The Planning Authority considers that the proposed development, cumulatively with existing appliances, apparatuses or structures at this location would represent a proliferation of such structures which would give rise to negative impacts on the visual and residential amenities of the area, of properties in the vicinity and on the convenience of pedestrians, contrary to Policy 4 Information and Communications Technology of the South Dublin County Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Insufficient information, including supporting evidence, has been provided having regard to the requirements of Section 11.6.2 of the South Dublin County Development Plan 2016-2022 to enable the Planning Authority to carry out a full and proper assessment of the need for the proposal at this location and the potential for other more suitable locations or solutions in the surrounding area to accommodate the proposed development. The proposed development would, therefore, represent an unjustified proliferation of appliances, apparatuses or structures on, under, over or along the public road at this location, which would set an undesirable precedent for similar development in the County and would, therefore, be contrary to the proper planning and sustainable development of the area.

### 3.2. **Planning Authority Reports**

- 3.2.1. The Planning Report is the basis of the planning authority's decision. The report concludes, having regard to the provisions of the South Dublin County Development Plan 2016-2022, the requirements of section 254(3) of the Planning & Development Act, 2000 (as amended), the specific context of the site and the information submitted with the application, that the development would give rise to negative impacts on the residential and visual amenities of the area, would represent an unjustified proliferation of appliances, apparatuses and structures which would set an undesirable precedent and the development would, therefore, be contrary to the proper planning and sustainable development of the area.

### 3.2.2. **Other Technical Reports**

- 3.2.3. **Broadband Officer** – As the applicant is a registered provider of telecommunications infrastructure and as the development sits into IE4 Objective 1 of the County Development Plan the licence should be granted.

### 3.3. **Prescribed Bodies**

- 3.3.1. None.

### 3.4. **Third Party Observations**

- 3.4.1. None.

## 4.0 Planning History

4.1.1. None.

## 5.0 Policy Context

### 5.1. South Dublin County Development Plan 2016-2022

5.1.1. The site is unzoned in Map 1 of the Plan as it is considered part of the road network.

5.1.2. There are two separate policy areas specifically cited in the reasons for refusal. The first area is contained in Section 7.4.0 (Infrastructure & Environmental Quality – Information and Communications Technology) as follows:

‘Infrastructure & Environmental Quality (IE) Policy 4 Information and Communications Technology (ICT)

It is the policy of the Council to promote and facilitate the sustainable development of a high quality ICT network throughout the County in order to achieve balanced social and economic development, whilst protecting the amenities of urban and rural areas.

IE4 Objective 1 – To promote and facilitate the provision of appropriate telecommunications infrastructure, including broadband connectivity and other innovative and advancing technologies within the County.

IE4 Objective 2 – To co-operate with the relevant agencies to facilitate the undergrounding of all electricity, telephone and television cables in urban areas wherever possible, in the interests of visual amenity and public health.

IE4 Objective 3 – To permit telecommunications antennae and support infrastructure throughout the County, subject to high quality design, the protection of sensitive landscapes and visual amenity.

IE4 Objective 4 – To discourage a proliferation of telecommunications masts in the County and promote and facilitate the sharing of facilities.

IE4 Objective 5 – To actively discourage the proliferation of above ground utility boxes throughout the County and to promote soft planting around existing ones and any new ones that cannot be installed below the surface to mitigate the impact on the area.

IE4 Objective 6 – To require the identification of adjacent Public Rights of Way and established walking routes by applicants prior to any new telecommunications developments (including associated processes) and to prohibit telecommunications developments that impinge thereon or on recreational amenities, public access to the countryside or the natural environment.’

5.1.3. The second area is contained in Section 11.6.2 (Implementation – Infrastructure & Environmental Quality – Information and Communications Technology) as follows:

‘In the consideration of proposals for telecommunications antennae and support structures, applicants will be required to demonstrate:

- Compliance with the Planning Guidelines for Telecommunications Antennae and Support Structures (1996) and Circular Letter PL 07/12 issued by the DECLG (as may be amended), and to other publications and material as may be relevant in the circumstances,
- On a map, the location of all existing telecommunications structures within a 2km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulation (2003),
- Degree to which the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area (e.g. visual impacts of masts and associated equipment cabinets, security fencing treatment etc) and the potential for mitigating visual impacts including low and mid level landscape screening, tree-type masts being provided where appropriate, colouring or painting of masts and antennae, and considered access arrangements, and
- The significance of the proposed development as part of the telecommunications network.’

## 5.2. **Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, 1996**

5.2.1. These guidelines, and the subsequent Circular Letter PL 07/12, are relevant to applications for telecommunications structures.

### 5.3. Natural Heritage Designations

- 5.3.1. The closest Natura 2000 site is Rye Water Valley/Carnton SAC approx. 4.7km to the north west. The closest heritage area is Grand Canal pNHA approx. 1.1km to the south.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

#### First Reason for Refusal

- With regard to the first reason for refusal, the site is an ideal location for such infrastructure and exactly the type of location espoused under the 'Green Book' (Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads) published by the Dept. of Communications, Energy and Natural Resources in 2015. Though no Visual Impact Assessment (VIA) was submitted with the application, one has been submitted with the grounds of appeal.
- It is difficult to perceive how the addition of a slim line pole, at a normal junction with street light poles and a traffic camera pole, could create such a cumulative impact that the visual or residential amenities of the area would be negatively impacted such that a refusal would be warranted. The electricity pylon south of Griffin Avenue serves to reduce the impact of the proposed pole.
- Two appeals have been granted for similar pole structures and cabinets in similar environmental circumstances (suburban location/arterial route) under ABP Reg. Refs. ABP-305114-19 and ABP-306440-20.
- As the site is just inside the boundary line of an SDZ it would appear to be a highly suitable location to provide such telecommunications infrastructure.

### Impact on Visual Amenity

- A VIA demonstrating before and after images from 13 no. viewpoints is submitted. The 15 metre solution, while visible, appears as a normal and functional part of the street furnishing. Existing street lighting and backdrop development have the effect of absorbing the structure.

### Impact on Residential Amenity

- Due to the orientation of the houses no house has a direct front line of sight to the proposed site/pole structure. Oblique sighting may be possible at certain locations, but this is not considered prejudicial to residential amenity in a suburban environment given some visibility of any form of development is to be expected. The only house which would potentially have a direct line of sight is 60 metres away from a first floor rear elevation window.

### Impact on the Convenience of Pedestrians

- This issue is perplexing as the public footpath is significantly apart from the site location and there will be no impact on the convenience of pedestrians on the footpath. Though a 'desire line' appears to have evolved near the location of the pole it is hard to comprehend a Local Authority condoning this over a public footpath. In any event, if a future footpath was to be built, established licensing provisions clearly provide that if the authority require removal of such a structure the operator must comply with same.

### Second Reason for Refusal

- The applicant acknowledges that there was no complete assessment of alternative sites or no technical justification submitted.

### Telecommunications Sites Within 2km

- The 2km distance is out of scale as there is a search ring area of approx. 330 metres x 260 metres within which a site is required. Nevertheless, 11 no. existing sites were identified within a 2km radius. These were discounted for reasons including the location was outside the required search ring, the mast structure was at capacity at the height required, Eir already co-locates at the location, the presence of a childcare facility and school in close proximity, the location available was too low, a structure would be required on the ridge roof

profile that would require planning permission, concern in relation to the structural integrity of roofs and difficulty in reaching agreement where a structure is in private ownership.

- Alternative streetwork solutions were considered within the search ring but were discounted for reasons including proximity to a school with reference to the Telecommunications Guidelines, a direct line of sight from houses and existing mature trees would disrupt the signal.

#### Technical Justification

- There is a dearth of telecommunications infrastructure within the area. The site is required to provide a solution bringing significant improvement to local residents. Only one other telecommunications site is situated within the required search ring and that has been discounted, notwithstanding a thorough investigation of this possibility. Telecommunications traffic through urban/commercial areas require more capacity/infrastructure given the higher volumes of radio traffic. Site coverage maps have been provided illustrating the existing area of deficient coverage and that which would result after provision of the proposed pole structure.

#### Miscellaneous

- The current necessary working from home practice as a result of Covid 19 has placed increased demand on the telecommunications sector and the broadband capacity of the network. The telecommunications network is a crucial tool in facilitating working from home and operators are under increasing pressure to guarantee supply of their radio networks.
- Consistency of approach by planning authorities to telecommunications infrastructure is necessary to stimulate the private sector to invest which is a significant pillar in the Government's Broadband Plan. The site has significant advantages over many of the alternatives presented. Licences have been granted in similar circumstances.
- It is submitted that planning policy at local, regional, and national level is overwhelmingly in favour of telecommunications infrastructure such as that



proposed. Investment by the private sector is crucial to full coverage levels and urban areas in general require more infrastructure to service demands.

- The planning authority planning report refers to a services map showing clearance distances with required minimum distances with regard to other underground services and a map showing these is submitted together with an accompanying note.
- Appendices have been submitted with the grounds of appeal including a VIA, confirmation the site is in public ownership, a Comreg map, a general letter from Ibec calling for planning authorities to prioritise telecommunications applications and a Radio Emissions Statement from Eir.

## 6.2. **Planning Authority Response**

6.2.1. None.

## 6.3. **Observations**

6.3.1. None.

## 7.0 **Assessment**

The review of the application for the licence and the grounds of appeal can be considered under the following headings:

- Background to the Application
- Legislative Context
- Infrastructure & Environmental Quality (IE) Policy 4 Information and Communications Technology (ICT) of the South Dublin County Development Plan 2016-2022
- Section 11.6.2 (Information and Communications Technology) of the South Dublin County Development Plan 2016-2022
- Appropriate Assessment

## 7.1. Background to the Application

- 7.1.1. The applicant is an infrastructure provider for the communications industry with sites around the country supporting mobile and broadband communications including tower, mast, roof top and streetwork solutions. The area is a known blackspot for mobile and wireless broadband. A solution has been identified by Eir.

## 7.2. Legislative Context

- 7.2.1. Section 254(1)(ee) of the Planning & Development Act, 2000 (as amended), states that a person shall not erect, construct, place or maintain overground electronic communications infrastructure and any associated physical infrastructure on, under, over or along a public road save in accordance with a licence. Section 254(6)(a) states that a person may appeal to the Board in relation to the refusal of a licence. Section 254(5) states that, in considering an application for a licence, the planning authority, or the Board on appeal, shall have regard to:

- (a) The proper planning and sustainable development of the area,
- (b) Any relevant provisions of the development plan, or a local area plan,
- (c) The number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
- (d) The convenience and safety of road users including pedestrians.

## 7.3. Infrastructure & Environmental Quality (IE) Policy 4 Information and Communications Technology (ICT) of the South Dublin County Development Plan 2016-2022

- 7.3.1. The first reason for refusal cites this policy. The policy contains six separate objectives which are set out in full under Section 5.1.2 of this assessment. Assessment of the appeal is to be considered in the context of this policy.
- 7.3.2. The proposed development is consistent with Objective 1 which promotes and facilitates appropriate telecommunications infrastructure. I note the planning authority's Broadband Officer recommended a grant of the licence.

- 7.3.3. I do not consider Objective 2, which refers to undergrounding of cables, to be relevant to this licence application.
- 7.3.4. Objective 3 states antennae and support infrastructure will be permitted subject to high quality design and protection of sensitive landscapes and visual amenity. The antennae are contained within a slim line pole and shrouded at the top. The site cannot be considered a sensitive landscape. A VIA has been submitted with the grounds of appeal. While the structure is significant in height, I do not consider that it would result in any notable reduction in the visual amenity of the area given its location adjacent to a relatively significant road junction.
- 7.3.5. In relation to Objective 4 I consider that the reasons provided in Figure 9 of the grounds of appeal for not sharing existing facilities are reasonable. A technical justification has been put forward for the provision of the structures.
- 7.3.6. The grounds of appeal make no reference to Objective 5. While the utility cabinet/box was not specifically referenced in the first reason for refusal it is not proposed to install it below the surface. I consider a soft planting scheme is appropriate around the cabinet area as provided for in Objective 5.
- 7.3.7. With regard to Objective 6, public footpaths are provided as part of the wider road junction and pedestrian network and they are located away from the specific location of the proposed structures. Notwithstanding, as noted in the grounds of appeal, a pedestrian desire line appears to have evolved adjacent to the site. However, I do not consider that the proposed structure would have any undue impact on this informal path or on the convenience of pedestrians.
- 7.3.8. Having regard to the foregoing, I consider the development is consistent with the objectives of Policy IE4 of the County Development Plan 2016-2022 and the proper planning and sustainable development of the area.

7.4. **Section 11.6.2 (Information and Communications Technology) of the South Dublin County Development Plan 2016-2022**

- 7.4.1. The second reason for refusal cites this section of the Plan. It contains four separate elements which are set out in full under Section 5.1.3 of this assessment. The assessment of the appeal is also to be considered in the context of this section.

- 7.4.2. The first element requires compliance with the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) and Circular Letter PL 07/12 which the grounds of appeal consider to be grossly outdated. I consider the applicant has demonstrated compliance with the guidelines. For example, reasons have been submitted for why sharing an existing facility has not been pursued and a health and safety statement has been submitted.
- 7.4.3. The grounds of appeal set out on a map all existing facilities within a 2km radius of the site as required under the second element of Section 11.6.2. Figure 9 identifies these locations and sets out the reasons why sharing these facilities is not feasible. I consider the reasons identified for discounting existing facilities to be acceptable.
- 7.4.4. With regard to the third element of Section 11.6.2, the grounds of appeal provide a justification as to why the proposal will not have a significant impact on the amenity of nearby properties or the amenity of the area. I note that the site location is adjacent to a relatively busy road junction where there are multiple physical features including traffic lights, lighting columns, road signage, directional bollards and pedestrian islands with associated railings. It is a visually cluttered junction. In addition, there is a substantial electricity pylon approx. 40 metres to the south on the opposite side of Griffeen Avenue. While the structure would clearly add to the visual clutter, I do not consider that it would have a significant undue impact in the context of the existing junction. While there are houses in the vicinity, I note that there are none with direct overlooking of the site from front elevations and most houses would have only oblique views and from a relatively long distance. I consider the proposed structures would not have any significant impact on the amenity of nearby properties or on the amenities of the area.
- 7.4.5. In terms of the fourth element of Section 11.6.2, the proposed development would address current deficiencies in the network in the surrounding area and a grant of the licence was recommended by the planning authority's Broadband Officer.
- 7.4.6. Having regard to the foregoing, I consider the development is consistent with the content of Section 11.6.2 (Information and Communications Technology) of the South Dublin County Development Plan 2016-2022 and would be in accordance with the proper planning and sustainable development of the area.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location remote from and with no hydrological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that a licence be granted subject to conditions, for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

Having regard to the provisions of section 254 of the Planning & Development Act, 2000 (as amended), national, regional and local policy objectives as set out in the South Dublin County Development Plan 2016-2022 Policy IE4, and the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) as updated by Circular Letter PL 07/12, it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the relevant provisions of the South Dublin County Development Plan 2016-2022, would not be seriously injurious to the amenities of the area or residential amenity in the vicinity, would not interfere with the convenience and safety of road users including pedestrians and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The licence shall be valid for a period of three years from the date of this Order. The telecommunications structure and related ancillary structures including any access arrangements shall then be removed and the site lands shall be reinstated on removal of the telecommunications structure and ancillary structures unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

**Reason:** To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.

2. The antenna type and mounting configuration shall be in accordance with the details submitted with this application for a licence, and notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission.

**Reason:** To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.

3. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

**Reason:** In the interest of public health and to prevent flooding.

4. A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public safety.

5. Details of the proposed colour scheme for the pole, antennas, equipment containers and any perimeter fencing shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

6. Landscaping of the site shall be carried out in accordance with a landscaping scheme, details of which shall be submitted to and agreed in writing with planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

7. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or within the curtilage of the site without a prior grant of planning permission.

**Reason:** In the interest of the visual amenities of the area.

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Anthony Kelly  
Planning Inspector  
20.08.2020